HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V.SEETHAPATHY

Writ Petition No.23239 of 2005

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Between:

Razaka Jana Sangam,
represented by its President,
Challavarigudem. …Petitioner.

And

District Collector, West Godavari District,
Eluru and others. ….Respondents.

:: O R D E R ::

Counsel for the petitioner : Sri Satyanarayana Nimmagadda

Counsel for respondent Nos.1 to 3 : Government Pleader for Panchayat
Raj

Counsel for respondent No.4 : None.

Counsel for respondent Nos.5 to 14 : Sri Naram Nageswara Rao

19th February, 2007

Per G.S. SINGHVI, C.J.

In this petition filed as a piece of public interest litigation, the petitioner has prayed for issue of a direction to the official respondents to remove encroachments from Dharmacheruvu Tank measuring Ac.19.54 cents in Survey No.75, Challavarigudem Village, Jangareddygudem Mandal, West Godavari District.

In the affidavit filed by Shri T. Veerabadhra Rao, President of the petitioner society, it has been averred that the tank in question is in existence since time immemorial and it is being used by about 15 families of washermen who are engaged in washing the clothes of villagers and rearing the fish. He has further averred that on an application made by the members of the petitioner society, Panchayat Secretary, Taduvai Gram Panchayat gave permission for undertaking fish culture in the tank for
F 1410 to F 1412. Still further, the deponent has averred that one Kouluri Veera Raju has encroached on a portion of the tank, put up fencing and is preventing washing activity resulting in huge loss to the washermen. The deponent's grievance is that despite representations made to the concerned authorities, action has not been taken for removing the encroachments.

In the reply affidavit filed by Shri P. Gavaraiah, Mandal Revenue Officer, Jangareddigudem Mandal, the factum of existence of the tank has not been disputed, but it has been averred that at present, only
Ac.9.04 cts. area is covered by tank and the remaining portion of it has been used for construction of pucca houses and thatched huts including Ramalayam. According to Shri Gavaraiah, the Grampanchayat passed a resolution to grow fish in the above said tank for three Faslies i.e. 1410 to 1412 (Corresponding Years from 2001 to 2003) on payment of
Rs. 11300/-, but, on receipt of representation from the villagers that the

water tank is being polluted, the washermen community was directed not to grow fish. In paragraphs 3 and 4 of his affidavit, Shri P. Gavaraiah has averred as under:

> "3. It is submitted that one Koluri Veerraju encroached some portion of the foreshore area to grow paddy. During the inspection by the Revenue Authorities, it was found that the above person occupied some portion near tank bund. Immediately, he was evicted from the encroached land. As such the allegation of the petitioner society that the aid Veerraju is obstructing their washing work by raising a fence and threatened the petitioner society that he would implicate them in false cases is not true. The allegation that the said Veerraju caused breach to the tank bund and left the entire water to go out in the rainy season is not true.
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> 4. In reply to para 6 of the affidavit, it is submitted that no funds were sanctioned by the Government for carrying out repairs of the said tank. It is further submitted that a representation dt. 5.9.2006 as given by the encroachers stating that they are residing in the said area for the last 40 years by ay of constructing pucca houses and thatched huts and paying taxes to the Panchayat and that a Ramalayam was also constructed in the year 1958 and the area in which they have constructed houses is not being used as tank for the last 40 years. They have further stated that Electricity, Water Facility are also provided to them by the Panchayat and requested not to carry out any eviction proceedings as thy are poor. Thereafter this respondent has informed the prevailing circumstances to the District Collector, West Godavari for necessary instructions by letter dt.9.9.2006. The District Collector who is the 1st respondent herein has issuedProc.No.E2/7708/2006, dt. 4.12.206 (received on 6.12.26) to evict the encroachers who are using the tank for agriculture purpose and also send necessary proposals for relaxation of ban orders issued by the Government for conversion of tank bed lands for use of

house site pattas to the existing encroachers with prior approval to the Government through the Chief Commissioner of Land Administration. Action will be accordingly taken as per the above Proceedings dt.4.12.2006."

Learned counsel for the petitioner submitted that in view of the averments contained in the counter-affidavit filed by Shri P. Gavaraiah, the Court may direct the official respondents to protect the existing water body comprised in Ac.9.04 cents.

Learned counsel for the private respondents submitted that his clients have not encroached and will not encroach the existing water body.

In view of the statements made by the learned counsel and the averments contained in the counter affidavit of Shri P. Gavariah, Mandal Revenue Officer, Jangareddygudem Mandal, the writ petition is disposed of with the direction that the official respondents shall take all necessary measures including removal of the encroachment allegedly made by respondent No.12, who is shown to have sown sugarcane and paddy in a part of the existing water body. This should be done by the official respondents keeping in view the law laid down by the Supreme Court in **Intellectuals Forum v. State of A.P.**[1].

As a sequel to disposal of the writ petition in the manner indicated above, WPMP.No.29806 of 2005 filed by the petitioner for interim relief is disposed of as infructuous.

G.S.SINGHVI, C.J.

19th February, 2007

G.V.SEETHAPATHY, J.

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[1] (2006) 3 SCC 549